HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE MS JUSTICE G.ROHINI

WRIT APPEAL No.870 OF 2007

Between:

A.Veera Malleswara Rao

. . .Appellant

AND

A.Bhupathi Rao and others

. . .Respondents

:: JUDGMENT ::

Counsel for the appellant : Shri S.Satyam Reddy

26th October, 2007

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PER G.S.SINGHVI, CJ

This is an appeal for setting aside order dated 24.04.2007 passed by the learned Single Judge in Writ Petition No.9213 of 1998 whereby he declined the appellant's prayer for quashing orders dated 04.12.1992, 24.09.1994 and 13.10.1997 passed by Mandal Revenue Officer, Alair, Nalgonda District, Sub-Collector, Bhongir, Nalgonda District and Joint Collector and Additional District Magistrate, Nalgonda.

In the writ petition filed by him, the appellant pleaded that his father, father of respondent No.1 and respondent Nos. 2 and 3 partitioned their property in the year 1953 and separate passbooks were issued to them and that Ac. 19.06 guntas fell to the share of each four brothers; that at the time of partition, his father and the latter's brothers chose to put their lands together and subsequently got divided their property in 1966; that khata No. 232 stands in the name of his father, khata No. 114 stands in the name of father of respondent No. 1 and passbook khata Nos. 230 and 231 in the name of respondent Nos. 2 and 3 respectively; that after the death of his father, Mandal Revenue Officer, Alair entertained the application filed by respondent Nos. 2 and 3 and apportioned the land under Section 5 (a) of the Record of Rights Act, 1989; that appeal and revision filed by him were dismissed by the Sub-Collector, Bhongir and Joint Collector, Nalgonda. He claimed that the Mandal Revenue Officer did not have the jurisdiction to entertain the application filed by respondent Nos. 1 to 3 and, therefore, the order passed by him for partition of the land

was uncalled for.

The learned Single Judge, after going through the record of the case held that in view of the no objection given by the appellant for mutation of land in his own name and the names of respondent Nos. 1 to 3, the grievance of the appellant was untenable. The relevant portions of the order passed by the learned Single Judge are extracted below:

> "Now, coming to the merits of the case, evidently, there was a formal partition between the petitioner and the respondents 1 to 3 in the year 1966 and a representation was made requesting the 4th respondent-Mandal Revenue Officer to mutate their names as per the partition that took place in the year 1966. According to the respondents 1 to 3, the 1st respondent's father by name late Venkayya, owns an extent of Ac.76.24 guntas and in the partition each of them including the petitioner herein got an extent of Ac.19.06 guntas and the same was requested to be mutated in the revenue records. When the petitioner herein, after being served with a notice, stated that he has no objection for the mutation, the 4th respondent mutated the names in favour of the petitioner as well as the respondents 1 to 3, against which, of course, an appeal and a revision were preferred by the petitioner but was not successful in his attempts and hence, he has filed the present writ petition.
>
> I am unable to agree with the learned counsel for the petitioner that the authorities acted beyond their scope and partitioned the lands belonging to the petitioner. It is only on the information given by the respondents 1 to 3 that there was a formal partition, and when the 4th respondent caused service of notice to the petitioner, he also agreed that he has no objection for such mutation. Further, the mutation, in no way, confers any right whatsoever. Ultimately, if there is anything, it is always open for the petitioner as well as the respondents 1 to 3 to go to a competent civil Court of law and agitate their rights. Hence, this Court is of the view that the order dated 4.12.1992 passed by the Mandal Revenue Officer which was confirmed by the authorities mutating the names of the petitioner as well as respondents 1 to 3 in the revenue records is perfectly justified."

We have heard Shri S. Satyam Reddy and perused the record. During the course of hearing, we pointed out to Shri S.Satyam Reddy that in the written statement submitted to Mandal Revenue Officer, Alair his client had agreed in writing for division of the land in dispute in four equal shares leaving the ways and asked him to explain as to how it is open to the appellant to question the orders passed by the appellate and revisional authorities. In reply, the learned counsel submitted that no such written statement was filed before Mandal Revenue Officer. However, from the pleadings of the writ petition, learned counsel could not point out that his client had not given no objection to the partition of the land. This being the position, it is not open to the appellant to question the orders passed by the Mandal Revenue Officer, Sub-Collector and Joint Collector and we do not find any valid ground to interfere with the order under challenge.

With the above observations, the appeal is dismissed. However, it is made clear that if the appellant and his brothers filed suit in terms of the liberty given by the learned Single Judge, then the concerned Court shall decide the rights of the parties without being influenced by the observations contained in the order under challenge and/or this judgment.

As a sequel to dismissal of main appeal, WAMP No.1744 of 2007 filed by the appellant for interim relief is also dismissed.

G.S.SINGHVI, CJ

26th October, 2007

G.ROHINI, J

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